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BEFORE THE ARIZONA CORPORATION COMMISSION

IN THE MATTER OF THE
APPLICATION OF PINE WATER
COMPANY FOR A
DETERMINATION OF THE
CURRENT FAIR VALUE OF ITS
UTILITY PLANT AND PROPERTY
AND FOR INCREASES IN ITS
RATES AND CHARGES BASED
THEREON FOR UTILITY SERVICE
AND FOR APPROVAL TO INCUR
LONG-TERM DEBT

DOCKET NO: W-03512A-03-0279

NOTICE OF FILING SURREBUTTAL
TESTIMONY OF ROBERT T.
HARDCASTLE CONCERNING METER
MORATORIUM AND COMPLIANCE
ISSUES

Applicant, Pine Water Company, Inc., hereby files the Surrebuttal Testimony Of
Robert T. Hardcastle Concerning Meter Moratorium and Compliance Issues, in the above-
captioned docket.

RESPECTFULLY SUBMITTED this 8th day of February, 2005.

FENNEMORE CRAIG

By

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1 Original and 13 copies were filed
2 this 8th day of February, 2005, to:

3 Docket Control
4 Arizona Corporation Commission
5 1200 West Washington
6 Phoenix, Arizona 85007

7 A copy of the foregoing
8 was hand-delivered this
9 8th day of February, 2005, to:

10 Dwight Nodes, Administrative Law Judge
11 Hearing Division
12 Arizona Corporation Commission
13 1200 West Washington St.
14 Phoenix, AZ 85007

15 Jason Gellman, Staff Attorney
16 Legal Division
17 Arizona Corporation Commission
18 1200 W. Washington St.
19 Phoenix, AZ 85007

20 Marlin Scott
21 Engineering Division
22 Arizona Corporation Commission
23 1200 W. Washington St.
24 Phoenix, AZ 85007

25 A copy of the foregoing was mailed
26 this 8th day of February, 2005, to:

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5
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19 **SURREBUTTAL TESTIMONY OF ROBERT T. HARDCASTLE**
20 **CONCERNING METER MORATORIUM AND COMPLIANCE ISSUES**
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1 **I. INTRODUCTION AND QUALIFICATIONS**

2 **Q. PLEASE STATE YOUR NAME, BUSINESS ADDRESS AND TELEPHONE**
3 **NUMBER.**

4 A. Robert T. Hardcastle, 3101 State Rd., Bakersfield, California 93308. My telephone
5 number is (661) 633-7526.

6 **Q. BY WHOM ARE YOU EMPLOYED AND IN WHAT CAPACITY?**

7 A. I am the President of Brooke Utilities, Inc. ("Brooke"). Brooke is the sole
8 shareholder of the Applicant, Pine Water Company, Inc. ("PWCo" or the
9 "Company"). I am also the Company's President.

10 **Q. ARE YOU THE SAME ROBERT T. HARDCASTLE THAT PREVIOUSLY**
11 **SUBMITTED DIRECT TESTIMONY ON METER MORATORIUM AND**
12 **COMPLIANCE ISSUES?**

13 A. Yes, my direct testimony on these issues was filed in this docket on January 18,
14 2005.

15 **Q. WHAT IS THE PURPOSE OF YOUR SURREBUTTAL TESTIMONY?**

16 A. The purpose of my surrebuttal testimony is two-fold. First, I will respond to the
17 Rebuttal Testimony of Marlin Scott, Jr. ("Scott Rebuttal") filed by Commission
18 Staff ("Staff") in this phase of this docket. Second, I will address several matters
19 and issues raised during the January 31, 2005 Public Comment Session in Pine,
20 Arizona, including: 1) Staff's analysis and recommendations concerning a total
21 moratorium on new customer connections in the PWCo service territory; and 2)
22 ADEQ compliance issues raised in Staff's November 19 Compliance Staff Report
23 (the "Report").

24 **Q. HAS PINE WATER'S POSITION ON A COMPLETE METER**
25 **MORATORIUM CHANGED?**

26 A. No. In fact, Mr. Scott's testimony does little to respond to the concerns raised in

1 my direct testimony. Specifically, Staff has ignored entirely the concern expressed
2 by me and several of our customers making public comment that a zero-meter
3 moratorium would motivate Gila County and the local real estate industry to find
4 other ways to grow the community, using the same water supply relied upon by
5 PWCo. Apparently, Staff has no answer for this concern and the Commission
6 should take no action to change the situation until a solution to this serious concern
7 is found. All of the various parties in Pine are utilizing the same water supply.
8 The assertion by Staff that PWCo should completely curtail its growth through a
9 prohibition of water meter connections is not reasonable if, at the same time, Gila
10 County does not participate in local water conservation. Gila County's potential
11 creation of additional water improvement districts does nothing to address the
12 problem that we all share. For PWCo to be the exclusive party with responsibility
13 to manage a limited water supply is not fair unless Gila County participates to a
14 similar degree.

15 **II. RESPONSE TO STAFF'S REBUTTAL**

16 **Q. DID STAFF MODIFY ITS RECOMMENDATION FOR ZERO-METER**
17 **MORATORIUM IN ANY MANNER FOLLOWING YOUR DIRECT**
18 **TESTIMONY?**

19 A. No, instead Staff is critical of the Company for failing to "provide any assessment
20 of how many service connections could be served by its water system." Scott
21 Rebuttal at 2.

22 **Q. DO YOU AGREE THAT THE COMPANY HASN'T MADE THE**
23 **ASSESSMENT STAFF SPEAKS OF IN MR. SCOTT'S REBUTTAL?**

24 A. Yes, but Staff misses the point. PWCo is not asking for or recommending that the
25 Commission make a change in the number of new service connections the
26 Company is allowed to make. However, Staff is making such a recommendation,

1 but it is up to Staff to demonstrate that its recommendation is in the public interest.
2 Staff cannot make that showing by shifting its burden of proof to PWCo.

3 **Q. IS STAFF CORRECT THAT THE COMPANY AGREES THAT IT FACES**
4 **SERIOUS WATER SUPPLY PROBLEMS?**

5 A. Absolutely, and these limited water supply conditions will be exacerbated if the
6 regulatory effect of a prohibition against meter connections in PWCo is not
7 accompanied by a similar effort by Gila County.

8 **Q. WHY WOULD THE WATER SUPPLY SITUATION GET WORSE IF THE**
9 **COMMISSION PRECLUDES THE COMPANY FROM ANY NEW**
10 **CONNECTIONS?**

11 A. For the reasons identified in my direct testimony, namely, that Gila County's past
12 support of the local real estate community has led to multiple water providers
13 tapping the same water supplies, and there is no reason to believe that will change.

14 **Q. HOW DOES STAFF ACCOUNT FOR THIS POTENTIAL PROBLEM IN**
15 **ITS RECOMMENDATION?**

16 A. As I stated above, it does not. Seemingly, Staff feels if it ignores the possibility
17 that a zero-meter moratorium will create an incentive for Gila County to create
18 water improvement districts, the possibility does not exist. History, however,
19 proves otherwise. The bottom line is, if growth occurs, someone is going to
20 provide water utility service to those new connections using the water supplies
21 available to PWCo. The Commission has a choice – either tie the Company's
22 hands and let another entity pump Pine's limited water supplies, or continue to
23 partner with PWCo to manage growth and pro-actively address the region's water
24 supply problem. Staff recommends the former. Until we can be certain Gila
25 County will prevent growth, PWCo recommends the latter.

26

1 **Q. BUT AREN'T 25 NEW CONNECTIONS PER MONTH TOO MANY?**

2 A. It is just a cap. The fact is, we are installing far less meters per month. For
3 example, in 2003 and 2004, PWCo connected eighty (80) and twenty-two (22) new
4 customers. Many of the 80 meters installed in 2003 were a result of Commission
5 Decision No. 65435 (December 9, 2002), which modified previous decisions to
6 include all areas of Pine, not only the previous "E&R portions." Commission
7 Decision No. 65434 allowed property owners to obtain a meter installation without
8 a building permit from the date of the Decision to January 31, 2003. This explains
9 the elevated number of meter installations in 2003 when compared to 2004. If, for
10 some unexpected reason, the Company faced an explosion of new meter requests,
11 PWCo would seek emergency relief from the Commission. As the current
12 moratorium exists, we are managing the limited growth and despite its
13 recommendation, Staff has not presented any evidence that the limited number of
14 new connections is making the situation measurably worse. PWCo feels it would
15 be very short sighted of the Commission, under the present circumstances, to
16 modify the meter moratorium in such a way that encourages Gila County to
17 continue promoting further real estate development in Pine at the expense of
18 current customers.

19 **Q. DOESN'T EVERY NEW CONNECTION MAKE THE WATER SUPPLY**
20 **SITUATION WORSE?**

21 A. In a general sense, yes. However, we have to view that marginal impact against the
22 undisputed fact that if we don't serve the new connection, someone else will, using
23 water the Company would otherwise have available. Given that the Company
24 serves the largest number of customers in the area, under Commission regulation,
25 and has access to other sources of supply (Project Magnolia and hauled water),
26 PWCo comes down on the side of allowing some new connections under a

1 managed approach.

2 **Q. DO YOU WISH TO RESPOND TO ANY PORTION OF MR. SCOTT'S**
3 **REBUTTAL TESTIMONY CONCERNING ADEQ COMPLIANCE**
4 **ISSUES?**

5 A. Yes, just one. Mr. Scott testified that my direct testimony failed to comment on an
6 ADEQ filed inspection report recommending that PWCo and Strawberry Water be
7 treated as one system. Mr. Scott is correct, but again, Staff misses the point.

8 **Q. PLEASE EXPLAIN.**

9 A. I did not address the issue of whether PWCO and Strawberry Water should be
10 combined because PWCo does not see that as an issue in this proceeding. No party
11 is recommending that the Commission treat these two separate public service
12 corporations, which have different tariffs of rates and charges, different facilities
13 and different customers, as one consolidated water company. Nor do I believe that
14 the recommendation in an ADEQ field inspection report is of any legal effect in
15 this proceeding. Indeed, Mr. Scott even testifies that at this time, it is unclear
16 whether ADEQ is even treating PWCo and Strawberry Water as a single system.

17 **III. PUBLIC COMMENT SESSION**

18 **Q. DURING THE PUBLIC COMMENT SESSION, SEVERAL CUSTOMERS**
19 **COMMENTED THAT NO MORATORIUM ON NEW CONNECTIONS**
20 **WOULD BE NEEDED IF THE COMPANY WOULD JUST ADD STORAGE**
21 **CAPACITY. DO YOU AGREE?**

22 A. No. Adding storage is often brought up as a solution to the region's
23 water supply shortages. However, as I testified at length in the rate phase of this
24 proceeding, "use of storage capacity is directly limited by water production. It
25 does not matter how much storage capacity Pine Water has if it does not have the
26 water production to fill it." Hardcastle Rejoinder at 25. Doubling Pine Water's

1 existing storage capacity would not even get the Company through a long Fourth of
2 July weekend. Moreover, there would be a significant expense – a one million
3 gallon water storage tank would likely cost more than \$1 million to construct. This
4 is equivalent to 6,410 loads of water that is bought only when needed, or about 8-
5 10 years of water hauling.

6 **Q. COULDN'T WATER BE STORED DURING THE WINTER SEASON**
7 **WHEN DEMAND IS SUBSTANTIALLY LESS AND THEN USED IN THE**
8 **SUMMER WHEN DEMAND IS MUCH HIGHER?**

9 A. Possibly. It depends on how the water is stored, where it is stored, and what form
10 of water treatment is applied, if applicable. Moreover, there is the issue of fiscal
11 responsibility and recovery. Mass water storage and treatment is very expensive.
12 PWCo has roughly 2,000 customers, which is a very small customer base to carry
13 the financial burden of such a project that is needed only for very short-term
14 periods.

15 **Q. WHAT ABOUT THE BLUE RIDGE RESERVOIR PROJECT THAT WAS**
16 **BROUGHT UP DURING THE PUBLIC COMMENT SESSION?**

17 A. The Blue Ridge Reservoir project has been discussed and considered for years. In
18 summary, this is a proposed water supply and storage project for the Town of
19 Payson, with a potential supply branch provided for Pine. The problem, again, is
20 economic. Even the Town of Payson has indicated the expense related to a Pine
21 supply branch cannot be justified. The Company agrees. Of course, if another
22 party wants to build a supply branch from Blue Ridge Reservoir and/or another
23 storage reservoir, and take the financial risks associated with such a project, PWCo
24 would be more than pleased to buy reasonably priced wholesale water from such a
25 project.

26

1 **Q. TWO CUSTOMERS CLAIMED THAT STAFF'S RECOMMENDED**
2 **MORATORIUM IS DUE TO THE COMPANY'S SHORTCOMINGS. HOW**
3 **DO YOU RESPOND?**

4 A. I disagree completely. As we saw in the recent rate case, water supplies are in
5 short supply and it is an ongoing problem. It is also easy to blame the water
6 provider. The fact is, though, that the Company has done more than anyone to
7 increase the water available to its customers, and for years has lost money doing it.

8 I would also point out, while Staff disagrees with PWCo on whether there
9 should be a zero-meter moratorium, Staff does not cite any shortcoming of the
10 Company as the reason for its recommendation. Nor does any such reason appear
11 in the Commission's recent rate case order, Decision No. 67166 (August 10, 2004).
12 Even ADEQ, whose violations have become an issue in this case, didn't find
13 anything that was impacting the amount of water available to serve customers.

14 **Q. WILL THE COMPANY BE FILING ITS WATER LOSS REPORT AS**
15 **REQUIRED BY THAT DECISION?**

16 A. Yes, it will be timely filed on February 10, 2005 as required. In summary, I
17 believe that report will show that PWCo has retained its water loss at significantly
18 less than 15%, the level above which Staff has previously testified water loss is
19 unacceptable. In addition, the report will generally show PWCo has examined
20 many different areas of potential water loss and had addressed each area to varying
21 degrees.

22 **Q. DO YOU HAVE ANY OTHER RESPONSES TO THE PUBLIC**
23 **COMMENT?**

24 A. Yes, there are a couple additional points I would like to make. First, I strongly
25 disagree with the individual that declared the "drought to be over." It is true that
26 we have had a wet winter. That is the good news. However, the entire State has

1 been in a drought and nowhere has it had a worse impact than Pine, where water
2 supplies are short in the wettest times. It is going to take a lot more than one wet
3 winter to reverse the region's chronic water supplies problems.

4 Finally, while I have disagreed with Mr. Breninger's commitment to deep
5 well drilling in and around Strawberry, I whole-heartedly agree with him that the
6 recommended zero-meter moratorium falls far short of achieving anything. In fact,
7 as I have testified, and as Mr. Steve Scott so eloquently stated at the Public
8 Comment Session last week, it will likely make things worse. Instead, what we
9 need – as Mr. Breninger, a long-time student of Pine's water woes, stated – is a
10 multi-level effort by the State, Gila County, businesses, the Company and its
11 customers to combine their collective knowledge and resources towards a long-
12 term solution. The water supply deficiency problem in Pine is not PWCo's
13 problem alone. This is a problem that all parties share. It deserves a multi-faceted
14 solution approach with strong political leadership that has been absent for a long
15 time.

16 **Q. DOES THAT CONCLUDE YOUR SURREBUTTAL TESTIMONY?**

17 **A. Yes.**

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